



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|-------------------------------|
| 10/662,659 | 09/15/2003 | John Buiatti | | 1866 |
| 26387 | 7590 | 07/12/2006 | | |
| ROTH & GOLDMAN, P.A. 523 W. 6TH STREET SUITE 707 LOS ANGELES, CA 90014 | | | | EXAMINER HAND, MELANIE JO |
| | | | | ART UNIT 3761 PAPER NUMBER |

DATE MAILED: 07/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|------------------------|---------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/662,659 | BUIATTI, JOHN |
| | Examiner | Art Unit |
| | Melanie J. Hand | 3761 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 17 April 2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) 6, 15 and 23 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1,2,7-11,16,17-26 is/are rejected.
- 7) Claim(s) 3-5 and 12-14 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

| | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

EXAMINER'S COMMENT

Response to Arguments

Applicant's arguments, see Remarks, filed April 17, 2006, with respect to the rejection of independent claims 1, 10, 19 and 21 and dependent claim 20 have been fully considered and are persuasive. The rejections of claims 1,2,7-11 and 15-21 have been withdrawn. Applicant's arguments, with respect to the objection to claims 3-5 and 12-14 as being allowable but dependent from a rejected base claim have been fully considered and are persuasive. The objection to claims 3-5 and 12-14 has been withdrawn.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 21 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Prindle (U.S. Patent No. 751,415).

With respect to **Claims 1,21**: Prindle teaches a nipple shield A shaped upon one side to conform to a user's breast (breast cup having concave breast receiving portion) and a nipple receiving portion comprised of cavity B and artificial nipple "a" (nipple extender). Cavity B is of shape and depth to as to be nearly filled by the mother's nipple. The artificial nipple "a" has an end remote from said concave breast receiving portion having a plurality of holes a' (milk

delivery aperture) that enters the child's mouth. Artificial nipple "a" extends from the natural nipple to said remote end and thus has an axial length that is less than the combined axial length of cavity B and nipple "a", which represents the axial length of the nipple-receiving portion. Artificial nipple "a" is disposed directly over and close to the user's natural nipple, thereby being sized and configured to occupy space in said nipple-receiving portion not occupied by a user's nipple. Artificial nipple "a" has flow channels for conducting milk in said nipple-receiving portion from a user's nipple to holes a^2 (milk delivery aperture) at said remote end.

With respect to **Claim 2:** Prindle teaches artificial nipple F (nipple extender) that is slidably engaged with shield C.

With respect to **Claim 22:** Artificial nipple "a" is disposed directly over and close to the user's natural nipple, thereby being sized and configured to occupy space in said nipple-receiving portion not occupied by a user's nipple.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 7-9, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Prindle (U.S. Patent No. 751,415) in view of Han (U.S. Patent No. 6,213,840).

With respect to **Claim 7:** Prindle teaches that the concave breast-receiving portion of shield A is comprised of hard rubber, and therefore does not teach a flexible elastomeric material. Han teaches a hands-free breast pump supporting bra and system that comprises a bra having high elasticity and comprised of spandex material (flexible elastomeric material). Han also teaches that such hands-free support nursing systems are known ('840, Col. 1, lines 24,25), therefore it would be obvious to one of ordinary skill in the art to utilize the support bra taught by Han providing a flexible and comfortable breast-receiving portion with the device taught by Prindle to create a hands free nursing aid.

With respect to **Claims 8,9:** Prindle teaches that the milk delivery aperture comprises holes, not slits or crossed slits, and therefore cannot function as a normally closed delivery aperture. Han teaches a hands-free breast pump supporting bra and system that comprises a bra having slits located in the region of each nipple to accommodate a funnel from a suction source. ('840, Col. 2, lines 37-39) Han teaches that these slits may be horizontal and/or vertical or any shape that accommodates said funnel, which encompasses crossed slits. ('840, Col. 2, lines 43-50) It would be obvious to one of ordinary skill in the art to use the nipple shield taught by Prindle in tandem with the device taught by Han having crossed slits to provide a normally closed milk delivery aperture as taught by Han, as this device also provides a hands-free nursing aid.

With respect to **Claim 19:** Prindle teaches a nipple shield A shaped upon one side to conform to a user's breast (breast cup having concave breast receiving portion) and a nipple-receiving portion comprised of cavity B and artificial nipple "a" (nipple extender). Cavity B is of shape and depth to as to be nearly filled by the mother's nipple. The artificial nipple "a" has an end remote from said concave breast receiving portion having a plurality of holes a' (milk delivery aperture)

Art Unit: 3761

that enters the child's mouth. Artificial nipple "a" extends from the natural nipple to said remote end and thus has an axial length that is less than the combined axial length of cavity B and nipple "a", which represents the axial length of the nipple-receiving portion. Artificial nipple "a" has flow channels for conducting milk in said nipple-receiving portion from a user's nipple to holes a² (milk delivery aperture) at said remote end. Prindle teaches alternatively an artificial nipple F slidably received in and engaging said nipple-receiving portion.

Prindle teaches that the milk delivery aperture comprises holes, not slits or crossed slits, and therefore cannot function as a normally closed delivery aperture. Han teaches a hands-free breast pump supporting bra and system that comprises a bra having slits located in the region of each nipple to accommodate a funnel from a suction source. ('840, Col. 2, lines 37-39) Han teaches that these slits may be horizontal and/or vertical or any shape that accommodates said funnel, which encompasses crossed slits. ('840, Col. 2, lines 43-50) It would be obvious to one of ordinary skill in the art to use the nipple shield taught by Prindle in tandem with the device taught by Han having crossed slits to provide a normally closed milk delivery aperture as taught by Han, as this device also provides a hands-free nursing aid.

With respect to **Claim 20:** Artificial nipple "a" taught by Prindle is disposed directly over and close to the user's natural nipple, thereby being sized and configured to occupy space in said nipple-receiving portion not occupied by a user's nipple.

Claims 10, 18, 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Larsson et al (U.S. Patent Application Publication No. 2002/0062103) in view of Prindle (U.S. Patent No. 751,415).

Art Unit: 3761

With respect to **Claim 10:** Larsson teaches a breastpump having a universal hood base 7 and interchangeable suction hoods 1 (breast cup). Cylindrical part 5 is adapted to engage with a funnel 8 of a breastpump and has an open end wherein milk expressed from the breast is channeled to a milk delivery receptacle. Larsson teaches that extenders may be used in conjunction with the various cylindrical parts 5, and therefore those extenders would be of various lengths as well. Tubular shaped extension 17 functions as a channel for milk expressed from the breast to be delivered to the milk receptacle. ('103, ¶¶ 0001, 0021,0027) Larsson does not teach that the axial lengths of the nipple extenders are less than that of cylindrical part 5.

Prindle teaches a nipple shield A shaped upon one side to conform to a user's breast (breast cup having concave breast receiving portion) and a nipple receiving portion comprised of cavity B and artificial nipple "a" (nipple extender). Cavity B is of shape and depth to as to be nearly filled by the mother's nipple. The artificial nipple "a" has an end remote from said concave breast receiving portion having a plurality of holes a' (milk delivery aperture) that enters the child's mouth. Artificial nipple "a" extends from the natural nipple to said remote end and thus has an axial length that is less than the combined axial length of cavity B and nipple "a", which represents the axial length of the nipple-receiving portion. Prindle teaches that this prevents unnecessary and painful elongation of the user's nipple therefore it would be obvious to one of ordinary skill in the art to provide a nipple extender such as taught by Prindle with the device taught by Larsson.

With respect to **Claim 18:** Larsson teaches that hoods 1 have cones 3 having varying nipple tunnel lengths that slidably engage cylindrical parts 5 (nipple extenders).

With respect to **Claim 24:** Larsson teaches that cones 3 are comprised of elastomeric material. ('103, ¶ 0027)

Claims 11, 16, 17, 25, 26 rejected under 35 U.S.C. 103(a) as being unpatentable over Larsson et al ('103) in view of Prindle ('415) as applied to claims 10, 18 and 24 above, and further in view of Han (U.S. Patent No. 6,213,840).

With respect to **Claim 11:** Neither Larsson nor Prindle teaches a breast-receiving portion comprised of flexible elastomeric material. Han teaches a hands-free breast pump supporting bra and system that comprises a bra having high elasticity and comprised of spandex material (flexible elastomeric material). Han also teaches that such hands-free support nursing systems are known ('840, Col. 1, lines 24,25), therefore it would be obvious to one of ordinary skill in the art to utilize the support bra taught by Han providing a flexible and comfortable breast-receiving portion with the device taught by the combined teaching of Larsson and Prindle to create a hands free nursing aid.

With respect to **Claims 16,17,25,26:** Neither Larsson nor Prindle teaches a slit means at the distal end of tubular extension 17 to provide a normally closed milk delivery aperture. Han teaches a hands-free breast pump supporting bra and system that comprises a bra having slits located in the region of each nipple to accommodate a funnel from a suction source. ('840, Col. 2, lines 37-39) Han teaches a hands-free breast pump supporting bra and system that comprises a bra having slits located in the region of each nipple to accommodate a funnel from a suction source. ('840, Col. 2, lines 37-39) Han teaches that these slits may be horizontal and/or vertical or any shape that accommodates said funnel, which encompasses crossed slits.

('840, Col. 2, lines 43-50) It would be obvious to one of ordinary skill in the art to use the nipple shield taught by the combined teaching of Larsson and Prindle in tandem with the device taught by Han having crossed slits to provide a normally closed milk delivery aperture as taught by Han, as this device also provides a hands-free nursing aid.

Allowable Subject Matter

Claims 3-5 and 12-14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is an examiner's statement of reasons for allowance: A thorough search of the prior art of record did not disclose any reference taken alone or in combination with other references, that teaches or fairly suggests flow channels provided on an exterior annular surface of a nipple extender, wherein said flow channel is formed by multiple grooves or spaced surfaces on said annular surface that extend parallel to a central axis of said extender. The closest prior art of record is U.S. Patent No. 751,415 to Prindle. Prindle's teachings have herein been described in detail and will not be reiterated. Prindle does not teach that the channels formed by holes a^2 are disposed on an exterior annular surface of artificial nipple "a", nor does Prindle teach that they form grooves or spaced surfaces on such an exterior surface. Holes a^2 do extend parallel to a central axis of artificial nipple "a", however this limitation is set forth in claim 5 which is dependent upon allowable (but objected to) claim 3. Further, it would not be obvious to one of ordinary skill in the art to move holes a^2 to the exterior surface of nipple "a" or replace such holes with grooves on said exterior surface, as there is no motivation to do so.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melanie J. Hand whose telephone number is 571-272-6464. The examiner can normally be reached on Mon-Thurs 8:00-5:30, alternate Fridays 8:00-4:30.

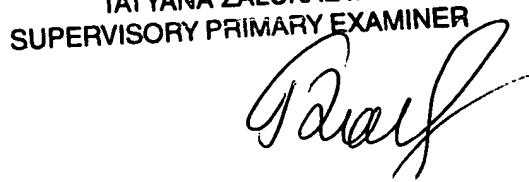
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Melanie J Hand
Examiner
Art Unit 3761

MJH

TATYANA ZALUKAEVA
SUPERVISORY PRIMARY EXAMINER



Application/Control Number: 10/662,659
Art Unit: 3761

Page 11